



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

SPECIAL MEETING

JUNE 17, 2003

PRESENT: Acevedo, Benich, Lyle, Mueller, Weston

ABSENT: Escobar, Engles

LATE: None

STAFF: Planning Manager (PM) Rowe, Senior Engineer (SE) Creer and
Minutes Clerk Johnson

Chair Acevedo called the meeting to order at 7:01 p.m.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Acevedo opened the public hearing.

With no one present wishing to address matters not appearing on the agenda, the public hearing was closed.

Chair Acevedo announced there would be no mechanical recordings of the meeting.

NEW BUSINESS:

PM Rowe reported that the Planning Commissioners had completed the scoring process for the Measure P allocation in April 2003 following the review and public hearings. There were three appeals of those scores which the City Council heard in a two-and-one-half hour hearing on May 28, 2003. At the conclusion of that meeting, the Council returned the three appeals to the Commissioners for further review of the appealed issues. Direction was also given by the Council to the Commissioners to provide further insight on the procedure and scoring for the award of the 1-point in Quality of Construction (B5), as they felt at a disadvantage since they had not been privy to the debate(s) and discussion of the issues involved in the award of that point.

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PM Rowe further gave details of the direction whereby the Commissioners will hear the appeals at this meeting and make any adjustments, then subsequently be returned to the Council on July 2, 2003. He reminded that the City Council has asked that the Planning Commission give full hearings to each of the three items, but only on the appeal items.

PM Rowe noted that the MP-02-23/AP-03-03: W. Edmundson-Pinn Bros. has appealed the 1-point under Quality of Construction (along with other items), but commented that the over-all score was lower than the cut-off scoring which the Commissioners had determined. The initial score for this application was 155.38 points and the last project on the Westside to get allotments had a score of 171.5.

Chair Acevedo reminded that the City Council has asked for further clarification of the criteria used for the scoring of the 1-point in Quality of Construction (B5) and asked PM Rowe to comment on how the Commissioners awarded that point. PM Rowe explained that all the Commissioners had discussed, then agreed on the five factors for the award. The Commissioners then individually reviewed all the applications and gave weight to the issues they felt most commonly applied to each of the factors agreed upon. Then the Commissioners announced – without elaboration of process - their scoring (topped at 100%) for each of the applications. Those scores were then averaged by the number of Commissioners declaring with the subsequent points award and those above 72 were awarded the 1-point. Commissioners joined the discussion with the explanation that while the details were not discussed, the process itself is a combination of subjectivity and objectivity. Commissioner Lyle commented that this 1-point was put in because there need to have some measure of subjectivity as the limits of Measure P are so rigid. Commissioners noted that before the scoring of the 1-point began, many hours had been spent in resolving the five factors which would be utilized for the scoring.

1) MP-02-06/ AP-03-01: E. DUNNE- DEMPSEY

Appeal of the Residential Development Control System evaluation for an 80 unit single family attached residential development on 9.5 acres on the south side of East Dunne Avenue, west of San Benancio Way.

PM Rowe gave the staff report; saying that the final score for this project was 177 and 179 was the score for final award given. He explained that the categories which had been appealed were:

Schools - PM Rowe noted that the travel distance was beyond the .75-mile travel distance and there was a lack of a safe walking route. He called attention to the minutes of May 25, 2003 when this matter was discussed.

Public Facilities - PM Rowe said the controversy stems with the ability of the planned project to deal with the run off from the adjacent properties

Circulation Efficiency - The stub street located across East Dunne from the property does not meet the required criteria of having streets and extensions for circulation located *within* the project, PM Rowe said.

Natural and Environmental - PM Rowe said the issue of the removal of ‘significant’ trees has been challenged

Quality of Construction (which Commissioners believed the Council wished to have reviewed)

Chair Acevedo opened the public hearing.

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John Telfer, 17045 Monterey St., said he has been working with the applicant to assist with resolution of this matter. He said that he is usually involved with 4 – 5 Measure P applications on an annual basis. Mr. Telfer commended the Planning Commission for ‘usually doing a good job’. However, Mr. Telfer said, this year there are three appeals and stated that he knew of 5 – 6 that were ‘in the wings’. He indicated that the explanation for the lack of points was primarily a lack of ‘accuracy’. Mr. Telfer pointed to the issue of *storm drainage* in the Public Facilities category as an example, citing the Monte Bella Villa project which had competed under Measure P. Specifically, he said, the oversized pond was done for the benefit of other development, and the developments were not under the same ownership at the time of allocation award. Mr. Telfer said he could also think of other developments which were interconnected to Monte Villa at the time of point award just for mitigation. Mr. Telfer said the applicant would have Bill McClintock speak to the technical issues of the matter. He predicted that the City (City Council and Planning Commission) would see more of this type of appeal as most of the applicants are property owners, not developers. “There is not a deep pocket,” Mr. Telfer indicated, “this process is very expensive and time consuming. The impression has been that if the project is not in the top 1 or 2, then it is not getting the attention of the Planning Commission. I believe that each of the applications deserves good and clear attention. I believe that did not happen. The applicants need clear direction,” Mr. Telfer said in conclusion.

Commissioner Weston asked Mr. Telfer if he thought the dispute was only in the Public Facilities category, and that the applicant has no problem with the scoring in the Schools and Circulation Efficiency categories, for example?

Mr. Telfer responded that the applicant argues with and questions each of the categories listed by PM Rowe.

Vince Burgos, 352 So. Eagle Nest Ln., Blackhawk, indicated he agreed with the statements made by Mr. Telfer, and wanted to add a few items. In participating with the applicants, he said, it has been the practice to look at the past criteria, any changes proposed or agreed upon and then look at how the projects could be innovative. For example, Mr. Burgos said, citing the Circulation Efficiency category, this project represents an example of infill with the circulation aspects presented, even though the street divides a major arterial, it can be looked at as adjacent, which shows how the inconsistencies between the categories exist. The provided stub, he said, presents ingress/egress to the arterial street and was recommended by Planning staff early on. “The value may not be at the level of a stub at a property line, but 1 or 2 points can be awarded in this category,” Mr. Burgos said, “and the applicant requests reconsideration and approval of the request. The stub has value to the City, and the applicant could have availed putting in the stub.” Mr. Burgos spoke at length on what he termed ‘inconsistencies’ in scoring.

Commissioner Weston asked if the applicant intends installing stoplights for development of the intersection? Mr. Burgos responded that is not part of the off-site plan.

Commissioner Mueller asked if there is mention of the signalization plans anywhere in the application? Mr. Burgos replied that he is unsure of this.

Bill McClintock, PO Box 1029, of MH Engineering, said he, too, agrees with the statements of John Telfer. He told Commissioners it is important to allow all applicants to

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voice their opinions and 'feel good'. "There is a credibility issue here; when you do something one year, the applicants would like to depend on the same thing the next year," Mr. McClintock said. He continued by speaking on the storm drain/Public Facilities category which he said had not changed for several years. This application, he said, in the area of storm water, got 9 of 10 possible points. The detention pond issues, Mr. McClintock continued, deal with the ability to provide detention on site, and this could result in two points. He gave an overview of the history of over-size detention ponds which dated back to the allocations given to the Monte Villa project. The mitigation presented was accepted, and so past practice was established. In the Monte Villa matter, he said the criteria did not exist but the City accepted the commitment made. Mr. McClintock indicated his belief that now there is a requirement (criteria) to show an excess of what's needed. "The narrative (provided by the Planning Department) is lengthy and confusing, but in meetings with the staff, developers and applicants asked more about the process. Must we have more storm water drainage than in the past?" he asked. "Here is a two acre park (indicating a provided map) we only need a fourth of that, and we can still provide plenty of detention." Mr. McClintock continued by indicating that in the past, a project was allowed to purchase space in Butterfield Blvd. for detention, and by paying the City, could excavate into the right-of-way. Now the policy, he said, appears to have changed, but the matter was not evident in the pre-screening conferences. "If and when the Planning Commission criteria changes, the applicants and the developers should be alerted," Mr. McClintock said. "If such a change is not announced, then during the competition, scoring should be done according to prior practice, and changes made for future competitions." He offered to speak to the issues dealing with the Monte Villa project, explaining the location and particulars of the 'circutal' draining on the 15 acres. He continued with explanation of the detention pond/drainage area (of the current project), saying that such construction did not expand the pre-development flow.

Commissioner Weston asked about the 'free flow from the bottom' (of the property), inquiring the possibility of attachment to the drain pipe. Mr. McClintock used the map again to provide a response, pointing to the subject project and the surrounding properties which have been recently developed [South County Housing] and those which have received allocations.

PM Rowe commented that Mr. McClintock was presenting an argument of capacity, that as areas around the subject property are now being developed this must provide space in a detention pond. He said that in actuality, the area of need is addressed and the detention capacity must be of sufficient space for the project; if other projects are then to be involved, there must be prior agreement for the ability to have a larger benefited area. One of the most important questions asked now is: how the over sizing of this pond will be of benefit? What is really the capacity needed? How is the area of need addressed?

Mr. McClintock resumed his presentation by giving an overview of the area around and including the subject property. He said the pond for First Community Housing goes to Butterfield channel and was developed without a detention pond, indicating that this project would be required to provide the capacity for that already-built development. "The City made a development agreement with First Community, and the DiConza project also has a development agreement with the City," Mr. McClintock declared, as he continued with an explanation of the location of the storm drain. First Community Housing and DiConza already have either a development or the ability to develop and this

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detention as planned will provide the mitigation needed. It can take the drainage from the existing 15 acres and add an additional 7 and still have plenty of detention ability. "At this point there will be no net increase," Mr. McClintock said.

Commissioner Weston asked if the detention pond is so designed that mitigation is adequate for all three projects? Mr. McClintock responded that this oversize detention pond will provide more mitigation than is needed. He continued by saying that if the pond could be built as part of a nice park, the maximum number of points would be available. Here, in this location, that is not possible, he said.

Mr. McClintock said that the applicant is only required to mitigate on their own property. He maintained that the issue is one of drainage, stating that First Community doesn't have the ability to provide drainage since that wasn't required when the development was completed.

Mr. McClintock spoke on what he perceived to be the salient points of Monte Villa versus this development.

Mr. Burgos said that he had made recommendations to his clientele regarding trees on the property. When looking at the trees to be saved, orchard trees are not recommended. Here, he said, we had eight specimen trees and ten orchard trees. The orchard trees are walnuts, and it is easy to see the inconsistency in this project for removing the orchard trees, Mr. Burgos said. Other projects, in the middle of orchards, have not had the recognition for retaining the non-orchard trees as significant.

Commissioner Mueller called attention to the application – on page 59 – where there is indication that the trees will be retained. Mr. Burgos said he did not have a copy of the application; consequently, PM Rowe read that section from the application.

Ms. Dempsey, the applicant, (no card provided) said she wanted to make some things clear about the detention pond. She said that the Commissioners are 'hung up' on the hook-ups. Ms. Dempsey said that when she met with staff, she was led to believe that there was no benefit to the surrounding properties with the oversize detention pond. "Now all the developers disagree with that," she said, and cited the 10 acres to the east as receiving benefit from the installation on her project. Ms. Dempsey continued by saying that this property is in the 'core of Morgan Hill and will be developed'. She said that there should be consideration given to the oversize detention pond, noting that if it is 100%, it will meet the standards, and if it has 150% capacity, it provides the ability for development to smaller properties and have smaller ponds. "This is all about benefit to the channel," Ms. Dempsey said. "If we build the pond to exceed the projected development, we will not increase the channel capacity. You know, the pond thing is confusing, but it will not require many connections to make it work."

With no other persons indicating a wish to speak to the matter, the public hearing was closed.

Commissioner Mueller reminded that this hearing is to deal with the items in the appeal only and that no new commitments can be taken – that was a ground rule that was understood, he said.

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Chair Acevedo asked if the oversize pond is an issue.

Commissioner Mueller said that there were not issues with the detention pond as such, but that in the appeal letter the applicant submitted there appears to be clarification dealing with (expanded) issues, and neither the Commissioners nor the Council can deal with those.

Consequently, the Commissioners discussed the categories highlighted in the appeal letter.

Schools Commissioners clarified with staff the wording of the Measure P data which determines the maximum distance(s) regarding projects and schools: From the center of the project to the closest entrance to the school property shall be no greater than 3/4-mile. Commissioner Lyle informed that he had measured the distance on five different trips, utilizing one car for three trips and a different car for two trips. He also utilized a AAA map for measurement, and determined the distance to be .85 miles, describing that to be 'clearly beyond 3/4-mile'.

Commissioner Mueller commented that 'sidewalks are the missing piece of the Schools category for this application.

Discussion ensued as to how the schools are scored (districts and departments of education are responsible) and the information they provide in the scoring of the applications. PM Rowe said that the schools are aware of the language of Measure P and are responsible for reporting the distance(s).

Commissioner Mueller said there is a need to clarify 'safe walking routes', and stated that it is not the nearest signalization, but the closest walking path.

Commissioner Benich said the application does show some logic, noting that kids will find the shortest distance (route) to their destination.

Commissioner Lyle said that was true, but the Commissioners are required to stick with the safest route.

Public facilities SE Creer responded to a question from Commissioner Weston, saying that other staff members in the Public Works Department had scored the application regarding the drainage and water detention issues.

Commissioner Mueller asked if it was the practice to pick a control point from which the flow could then be reduced downstream? SE Creer said the issue is what is written in the criteria. It appears that there have been attempts here, he said, to mold the application to fit the criteria. He then discussed the criteria having been formed following the mitigation measures with Monte Villa and First Community Housing as outlined by Mr. McClintock.

Chair Acevedo asked about the property across the street which has not been developed. SE Creer addressed that property and spoke from the standpoint of location of First Community Housing. Because of the storm water drainage mitigation in progress, he said, that project did not meet the criteria for requirement of a detention pond, nor being

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connected to one.

Commissioner Mueller cited other drainage projects which are connected in various fashions.

SE Creer then read the criteria for drainage ponds and facilities. He commented that he applauded the creativity of the speakers regarding the application.

Commissioner Benich asked if deleting the DiConza project from the oversize pond in this project would decrease the need for detention space? SE Creer explained that the DiConza project has already been mitigated.

Commissioner Mueller observed that he thinks there are other ways to do the detention pond, but those might not meet the criteria. He continued by saying there is a generalization of prior issues. "I can't make a connection of the information in the application to the criteria (for Public Facilities). We would consider inclusion of records for the criteria/guidelines in the future as beneficial," he said.

Chair Acevedo said that of all the appeal issues for this application, this has merit.

Mr. McClintock said that the issue of existing development mitigated has been addressed by paying, but insisted that the DiConza and First Community Housing developments did not pay.

SE Creer informed that DiConza and First Community Housing developments have agreements that say the volume of drainage has space available in the Butterfield channel.

Chair Acevedo conducted a 'straw vote' regarding **increasing the points in the Public Facilities category for this application**. The result was: Commissioners Weston, Mueller (who commented he knew the criteria was not being met, but he liked the proposal), Benich, Chair Acevedo – yes; Commissioner Lyle – no. Chair Acevedo announced that the Commissioners granted the point requested on the appeal **by a 4 – 1 'straw vote'**, the Commissioners having found **that three of the five Commissioners present were compelled by the argument of the applicant(s) to grant the point**. Commissioner Mueller stated that there is a problem; that being on page 20/note 1 of the criteria.

Circulation - Commissioner Lyle began discussion by referring to the intent of the criteria: a (street) stub is for opening land-locked property. "This stub doesn't qualify," he stated.

PM Rowe reported that the subject property doesn't need the stub for circulation purposes.

SE Creer said the issue is one of 'adequacy' within a project, not across the street on a different property.

Commissioner Lyle said the stub as shown doesn't enable anything.

Chair Acevedo commented there may be a need to define adjacency. He then conducted a

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straw vote regarding adding point(s) for this category with the following result: Commissioners Weston, Mueller, Benich (who said the criteria is clear), Lyle – no; Chair Acevedo said he was neutral on the matter. Therefore, no points were added to the Circulation category.

Natural and Environmental A question was raised: What would happen if, before the application was submitted, the trees had been removed? PM Rowe responded that the tree ordinance was part of the Measure P process. SE Creer said that the state has some say over the removal of certain types of trees.

Commissioner Mueller led the discussion by saying that there are three criteria for this category, and an applicant must do 2 – 3 things to get the two points. He recalled that the category is not limited to trees and this application received one point. Commissioner Mueller again referred to the application which stated (on page 59) that the applicant would save all the trees.

Commissioner Weston interjected that the testimony this evening is different from the statements in the (application) narrative.

Discussion ensued regarding the tree ordinance. Commissioner Lyle remarked that sometimes ‘trees of significance’ are defined. Commissioner Mueller directed attention to the criteria, saying that the Commissioners and Council and applicant appear to be focusing too much on *trees* and noting that there are other requirement items in this category. He further stated that the Commissioners are *not* being inconsistent. The applicants have, on appeal, actually ignored the language of their application, Commissioner Mueller conveyed.

Commissioner Lyle referred to the list of criteria in this category. “If Measure P is updated,” he said, “this is a section which will be revamped.”

Ms. Dempsey asked that if there were nothing but 18 walnut trees (instead of the eight specimen trees and ten orchard trees) on the property would the maximum number of points be awarded? “The question is,” she said, “when counting the walnut trees, was I penalized?” Commissioner Mueller again called attention to the criteria; other Commissioners agreed that the other requirements must be considered in awarding points.

By consensus, there was no change in point/award scoring for the Natural and Environmental category.

Quality of Construction - Commissioner Lyle directed attention to the directive received from the City Council, specifically the fact that the Council members indicated uncertainty as to the scoring process for this category. He said he felt the Commissioners must score the category; noting that even though it had been scored previously, not all Commissioners had scored it. “If we score that (last) application, we must score this one, as well,” he said. Commissioner Lyle continued that he would be in favor of giving the project a point.

Lengthy discussion followed regarding which Commissioners had participated in the scoring, with a score sheet being located that indicated three Commissioners had scored this project; thus the application had not achieved point award status. Chair Acevedo said

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he had not originally scored this project, but was now prepared to do so. Commissioner Weston said he had not scored the project, and would not now. "I don't think it's right to score now when a Commissioner did not originally do so," he surmised. "I'd have a hard time with giving the project a point now."

It was pointed out that this project did not appeal the 1-point in Quality of Construction.

PM Rowe stated that the Council specifically directed the Commissioners to look at the Quality of Construction point for the Pinn Brothers application. "Should that application get a point is their question?" he inquired. PM Rowe reminded that the Pinn Brothers application did not receive a point because of the low score. "This project did not appeal the Quality of Construction point," he repeated. "There has not been a request by the City Council nor the applicant in all the testimony tonight."

Commissioner Benich commented that considering the time spent on this matter, perhaps the Commissioners should eliminate this 1-point in the future criteria.

Commissioner Lyle reiterated that the project should have been scored.

Chair Acevedo asked for a 'straw vote' on whether to continue discussion on voting for award of 1-point in the Quality of Construction category. The response: Commissioner Weston wanted to vote on whether Chair Acevedo could now vote since he had not done so originally. Commissioner Mueller reminded that an additional point had already been awarded this application in the Public Facilities category. "If this is an additional point, then this application would tie for allocations," he said. Commissioner Mueller then discussed the point given for the detention pond and the possibility of increasing the score through award of the 1-point in Quality of Construction. "It is better to err on the side of caution, and ensure that past practice is followed," he stated. "We must be as fair as we can make it."

Commissioners indicated their wishes for award in the Quality of Construction with 1-point as follows: Commissioner Weston – did not/would not score; Commissioner Mueller – believed it deserved a score; Chair Acevedo - would score; Commissioner Benich – said it must be scored; Commissioner Lyle – yes.

With the new point added through revised scoring, the final point score for MP-02-06/AP-03-01: E. Dunne Dempsey was 179.61.

COMMISSIONER BENICH OFFERED RESOLUTION NO. 03-51, WITH THE FOLLOWING MODIFICATIONS: RECOMMENDING ~~DENIAL~~ APPROVAL OF AN APPEAL APPLICATION UNDER THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM FOR OPEN/MARKET RESIDENTIAL PROJECTS IN FISCAL YEAR 2004-05 AND FISCAL YEAR 2005-06. APPLICATION AP-03-01: E. DUNNE-DEMPSEY, WITH THE FOLLOWING MODIFICATIONS
SECTION 1: ...nearest school ~~beyond~~ WITHIN the 3/4-mile
...page 2...sectionB.2.d...DETENTION BASIN ~~CANNOT~~ WILL BE OVERSIZE TO ACCOMMODATE DRAINAGE ACROSS THE STREET TO THE NORTH
(ADDITION) SECTION E: ONE POINT IS AWARDED IN THE QUALITY OF CONSTRUCTION CATEGORY – SECTION B5Q/C. It was noted that discussion and straw vote regarding the application had not resulted in point increase in the Natural and

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**2) MP-02-22/
AP-03-02:
BARRETT-
ODISHO**

Environmental category. **THE MOTION WAS SECONDED BY COMMISSIONER LYLE AND CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, LYLE, MUELLER; NOES: WESTON; ABSTAIN: NONE; ABSENT: ENGLER, ESCOBAR.**

Appeal of the Residential Development Control System evaluation for a 36 unit single family residential development on 7.06 acres on the south side of Barrett Avenue, west of San Ramon Drive.

PM Rowe presented the staff report, telling Commissioners that this application had received 178.5 points, therefore was one point 'out of the running'. He then directed attention to the categories which had been appealed:

Public Facilities - Two staff members from Public Works had scored this section, with B/5/C (circulation) wherein two points are possible.

PM Rowe reminded this application *had* been scored in the Quality of Construction category and had been awarded the 1-point in section B/5.

Lot Layout - Planning staff had indicated some minor issues, which had resulted in the subtraction of 1-point and the applicant wants the point.

Chair Acevedo opened the public hearing.

Alexander Henson, attorney for the applicant, gave his opinion that there were two things before the City Council at their discussion: Quality of Construction, which he indicated understanding wants to know the workings of that category; and also why the appeals were filed. He indicated his client needs a total of one point and both feel that is very close to achieving. Mr. Henson said that a look at the Lot Layout category indicates his client was given a lesser score dealing with the structures because of the low income (BMR) housing. He said that 30% of the drives are adjoining and staff indicated this is one of the minor problems but since that (30%) would surely indicate a superior achievement, this matter has been appealed. "However," he continued, "they feel that the staff believes that anything less than 100% is not acceptable. The Commission presents a bias in this case." He said that only the corner lots are not adjoining and consequently, there is not an issue/problem. Mr. Henson said that the criteria is not existing for these issues and therefore his client is appealing. "I definitely see an inherent bias against low cost housing. The Commissioners look to the known developers in these competitions; those who build large marketplace dwellings," Mr. Henson declared. He then turned to Vince Burgos for comment on past practice.

Vince Burgos, 352 So. Eagle Nest Ln., Blackhawk, talked about the project, saying it should not be 'dinged' for the Lot Layout category, adding that it appeared that staff 'went out of the way to ding this project'. "The applicant has said he wanted to give more open space by having close driveways," Mr. Burgos said. "There was no direction from staff that they were not concerned with construction with other R2s," he continued. "Furthermore, the clustering of affordable units was an issue with the staff, but the applicant intends selling those at a moderate rate price and so the applicant tried to spread those throughout the project."

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PM Rowe provided the reminder of comments by staff regarding the spacing of the units.

Mr. Henson spoke again, indicating that there were two issues with the lot layout: the driveway placement of the attached units and the clustering. Mr. Henson spoke on eliminating the 50-foot space by designing the adjoining driveways. He said that it was his understanding that the prior applicant didn't get the points because of the clustering at the end of the property. Mr. Henson said the Commissioners needed to reconsider these two points because they were not minor problems and if his client could get one of the points he would be at 179.5. Mr. Henson also said that this is the only mixed-use project in the area that has low cost housing that the City Council wants. Mr. Henson indicated that the points in his letter to the Planning Commission had been reinforced by his presentation.

Commissioner Benich asks about lot 28. Mr. Henson said that the lot is big enough to give the same impression on both sides of the street. Mr. Burgos said lot 28 gives the transition from the cul-de-sac in somewhat a similar manner to the entry to the project. This was done, he said, to address the dynamics of the axis of north-south/east-west layouts.

With no others present to address the issue, the public hearing was closed.

Commissioner Lyle commented that the Commissioners do not have insight into knowing if the City Council members feel the 1-point in Quality of Construction must be subjective or objective; it appears they just want to know the procedure. He also took umbrage at the charge by Mr. Henson of bias by the Commissioners of low-income housing. Commissioner Lyle was quite forceful in addressing the issue.

Regarding Public Facilities, Commissioner Mueller said he had not heard any good argument to counter staff recommendation and the matter seemed 'pretty straightforward'. Other Commissioners agreed and there was no change to the points of the category.

Chair Acevedo noted that Quality of Construction category had been scored by five Commissioners originally and wondered if in the scoring the project may have been considered somewhat differently because of the inclusion of the multi-family units?

Commissioner Benich reminded that the City Council is interested in the process that the Commissioners undertook in awarding the 1-point for Quality of Construction. He then described the hours of debate first on settling on the five factors the Commissioners ultimately agreed upon. Then the process of each Commissioner combing the applications (individually) to ascertain the score they intended giving to each project. There were 100 possible points, he said, and each Commissioner could assign any number up to 100 for each project. Those numbers, he explained, were then averaged and a score/number derived. Having looked at the numbers obtained, a 'cut off' point of 72 was decided; those projects with less than 72 were not considered for the one point.

In the Lot Layout category, PM Rowe explained, this project had obtained 14 out of 15, that it was measured against 22 other applications (23 total applications). With one lot oversized, the front yard became smaller in favor of a larger rear yard. That loss of utility was seen as a minor flaw. Continuing, he recalled that the Planning Commission looked

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at BMR distribution more evenly throughout the project as a minor problem, particularly in the area of transition. The accumulation of these shortcomings resulted in the loss of one point in the Lot Layout category; however, it still received 14 of a possible 15 points.

Discussion ensued regarding the section of the Lot Layout category (B1F) which had been challenged. Commissioners agreed that in order to be *superior*, it would need to have more “top-quality” features meeting the criteria.

Commissioner Mueller asked about the zoning/density of the surrounding areas. Mr. Burgos explained the R1 and R2 zoning to the north of the subject property. Commissioner Mueller continued, asking if the R1 property in this project faces the R1 property which is adjacent? Mr. Burgos explained the other properties zoning and said that the triplexes for the subject property face R3 zoned property.

Chair Acevedo said he believes the project to be above average, but not superior.

Commissioner Mueller said he thought the minor problems identified by staff do exist, as well as perhaps some other issues, and said it could be potentially rated above average, but not superior.

Commissioner Weston said he echoed Commissioner Mueller.

Commissioner Benich said it is above average – not superior.

Commissioner Lyle said he could easily identify three minor issues; hence the project could not be superior.

Mr. Henson said the City Council wants a response to the appeal of adjoining driveways and that no one has commented on that issue nor has any response been made at all to the matter. He clarified his statement regarding Commission bias saying that if points are given on one hand, the points are taken away on the other.

Commissioner Weston said that regarding driveways, 30% is far too many for being adjoining. What breaking point would be reasonable, he asked? Look at the criteria and you will see that 100% compliance with the criteria is reasonable and there should be 0% adjoining drives. If you look at Lot Layout, Commissioner Weston continued, the argument is not percentages, but why the drives are together at all – and the answer is, that makes just too much concrete. Other Commissioners approved his statement.

Commissioner Mueller asked PM Rowe to justify the scoring by SP Linder regarding Lot Layout, particularly the driveways. PM Rowe responded that SP Linder looked at the mass (40-feet) of concrete, and was not prepared to establish a percentage threshold. He reminded that parallel drives in this use are a minor issue.

COMMISSIONER BENICH OFFERED RESOLUTION NO. 03-52, RECOMMENDING DENIAL OF AN APPEAL APPLICATION UNDER THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM FOR OPEN/MARKET RESIDENTIAL PROJECTS IN FISCAL YEAR 2004-05 AND FISCAL YEAR 2005-06. APPLICATION AP-03-02: BARRETT-ODISHOO, INCLUDING THE FINDING THAT ALL THE DRIVES COULD HAVE BEEN FREESTANDING,

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AVOIDING PARALLEL ADJACENCY OF SAID DRIVEWAYS. THE MOTION WAS SECONDED BY COMMISSIONER MUELLER AND CARRIED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; ENGLES AND ESCOBAR WERE ABSENT.

**3) MP-02-23/
AP-03-03: W.
EDMUNDSON-
PINN BROS.**

Appeal of the Residential Development Control System evaluation for a 45 unit single family residential development on 8.99 acres on the south side of West Edmundson Avenue south of Olympic Drive.

PM Rowe reminded that the final score for this project was 155.38 points. The last project on the west side to receive allocations had a score of 171.5. He then provided an overview of the categories and explanations regarding the appeal.

Schools (B2b) safe walking route. This involves the route to Paradise school. The school district in the scoring report said there needs to be signalization at the corner where students will cross the street.

Orderly and Contiguous (B.5) The project master plan has significant design flaws including a cul-de-sac that borders against a single unit lot.

Housing Needs and Types (B.2 and B.4) The applicant is asking for an additional 6.5 points. Staff has reviewed how R2 and R1 percentages are adjusted; this application did not meet the percentage required. In fact, PM Rowe reported, when the housing specialist reviewed the application, it was realized that the scoring should have been lower than originally thought. PM Rowe informed that the Planning Commission could forward a lowered corrected score to the Council. Lourdes Balderas, the scorer in this category, was present and addressed the matter at the request of the Commissioners.

Quality of Construction - This project had not been considered for the 1-point because of the low overall score. The Council specifically requested the Commissioners to reconsider this category.

Lot Layout - The reviewers had identified major and minor problems and had given 0-points, noting the three major design flaws.

Circulation Efficiency - In the original application, the applicant had indicated that the on-site walkways were *not* adjacent to City sidewalks, which is a requirement in the criteria.

PM Rowe reported that, based on review of the appeal items, no further points were warranted, while reminding that the score in the Housing Needs and Types categories could be lowered established by data obtained in the examination of the category.

Chair Acevedo opened the public hearing.

With no persons present to speak to the matter, the public hearing was closed.

[**Note:** Having observed that Vince Burgos had indicated on a speaker card that he would speak to the matter, he was offered the opportunity to do so. However, Mr. Burgos declined, saying he was not present to speak to the item.]

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Regarding the Schools, Commissioner Lyle noted that the project did not offer to put in caution signs. SE Creer agreed this was accurate. Commissioner Lyle suggested that if the applicant considers this when reapplying, the project may qualify for a point. Furthermore, he continued, the paths for the students to have safe walking ways has also been discussed. Other Commissioners agreed and no adjustments were made to the category.

Orderly and Contiguous - Noting that the application had been given 17 of a possible 20 points, with four significant design flaws noted by staff, Commissioners agreed that it was not possible to increase the number of points here. Commissioner Mueller commented that with several things changed, more points were possible in future years.

Quality of Construction - PM Rowe reminded that this application was not scored for the 1-point because of the low over-all total score being so far down on the list.

Commissioners indicated the following score for the project under the 1-point Quality of Construction reserved for the Commissioners to award:

Chair Acevedo - now gives the project a score of 66

Commissioner Lyle – 72

Commissioner Mueller (who said the above scored looked like charity in the works) – 44

Commissioners Benich and Weston declined to score

Consequently, the score for this project in Quality of Construction averaged 60, which Commissioners noted is well below the score of 68 required for granting the 1-point.

Commissioners directed that the record show that consideration of the five identified factors were considered in each scoring of the Quality of Construction category according to individual preference.

Housing Needs (D2) Commissioners agreed that it is clear that in the 45-unit project, 10% is **5** not **4** as is repeatedly documented in the application. [Note: Commissioner Mueller pointed out that the documentation is inconsistent, and in reading the application he discovered the most expensive BMR ever, with the listing to be \$625,000 for the BMR. Other Commissioners commented that the application is filled with errors, as well. They also noted that the applicant nor a representative was present at this hearing, saying there had been a desire to clarify the issues of concern in an interview during the meeting.] Discussion ensued regarding the possibility of lowering the points in this category. It was agreed by consensus that because of the error in the staff report which has been discovered, the points in this category would be reduced by **2**. The total score for Housing Types was originally 10.38, but has not been adjusted to 8.58.

Lot Layout Commissioner Weston led discussion by saying there was no way to refute the staff report and scoring of this category. Commissioner Mueller repeated the concern originally noted in the review/hearing of the projects regarding the 'race track' in the middle of the project.

Circulation efficiency Commissioner Mueller questioned the 40-foot easement at the back of the lots, noting that the applicant claimed that would be retained. He pointed to page 9 of the appeal where new information is presented, with all Commissioners agreeing that

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new data cannot be considered for the appeal as such is not verifiable. Commissioners again pointed to the inconsistencies of the report and noted that such are present in the appeal as well.

Regarding the 40-foot easement, SE Creer and Commissioner Mueller said that this is an old storm drain in a utility easement.

Commissioner Lyle pointed out that this applicant in the appeal letter said there is a policy regarding 65% of the allocations being given to on-going projects, implying that is a limit set. Commissioners all agreed this is not a limit, but a minimum and is not just applied to the east side allotments.

Commissioners affirmed the staff report and scoring as presented for this project. The total score for MP-02-23/AP-03-03: W. Edmundson-Pinn Bros. is **153**.

Commissioner Mueller spoke on a 'problem statement' which conveys a bias of the Commission that if a project does poorly one year in the application process, it will not be considered well in future years. Citing examples of the Warmington project which did not do well at first, but with a resubmittal was the highest scoring in a subsequent year, he decried this as a false statement. Other Commissioners concurred.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 03-53, RECOMMENDING DENIAL OF AN APPEAL APPLICATION UNDER THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM FOR OPEN/MARKET RESIDENTIAL PROJECTS IN FISCAL YEAR 2004-05 AND FISCAL YEAR 2005-06. APPLICATION AP-03-03: W. EDMUNDSON-PINN BROS. INC., WITH THE FOLLOWING MODIFICATIONS:

Section B: ...Section B.5 Orderly and Contiguous

Section C: *The application is inconsistent and incorrect: the project size is 45 units and with rounding up, the percentage is 5 not 4 (the narrative repeatedly states 4). The score was reduced by two points in the re-evaluation.*

Section D. *The 1-point was denied based on the average score of 60; 68 was the minimum score for point award.*

Section F(3) *The application is ambiguous in that there is not clarity as to the future of the 40-foot easement. The site plan suffers a flaw because of this.*

COMMISSIONER WESTON SECONDED THE MOTION, WHICH CARRIED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; ENGLS AND ESCOBAR WERE ABSENT.

Commissioners asked what the next steps were in this process. PM Rowe responded that the information and action from this meeting will be forwarded to the City Council for their meeting July 2, 2003. Responding to a question from Commissioner Weston, he said there would be no change in the allocations unless the Council makes changes. PM Rowe reminded that the Planning Commission is charged with awarding the allocations unless the appeal is upheld by the Council and that body changes the allocations.

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ANNOUNCEMENTS:

PM Rowe reminded that there will be a joint workshop with the members of the City Council for consideration of the Murphy Avenue Corridor study on June 24, 2003, commencing at 6:00 p.m.

ADJOURNMENT: There being no further business, Chair Acevedo adjourned the meeting at 10:10 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk